

CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED
04/03/02
MICHAEL N. MILBY, CLERK
BY DEPUTY, *[Signature]*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
ENTERED

APR 03 2002

Michael N. Milby, Clerk of Court

MARK NEWBY, ET AL.,

Plaintiff,

vs.

ENRON CORPORATION, ET AL.,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-01-3624
AND CONSOLIDATED CASES

ORDER

ON THIS DAY the Court considered the Motion for Entry of Order on Stipulation of Parties Regarding Subpoenas. Having considered the motion and the applicable authorities, it is the opinion of this Court that the Motion should in all things be granted. The Court

ENTERS the attached stipulation as an Order of this Court.

The Court also accordingly

CANCELS the hearing previously set on the motion for stay of discovery proceedings in Cause No. 32,716, Bullock v. Arthur Andersen, L.L.P., pending in the 21st Judicial District Court of Washington County, Texas, and request for expedited hearing or ruling (instrument #406 in Newby, H-01-3624).

Signed at Houston, Texas, this 3rd day of April, 2002.

Melinda Harmon
MELINDA HARMON
UNITED STATES DISTRICT JUDGE

431

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARK NEWBY, ET AL.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NO. H-01-3624
	§	AND CONSOLIDATED CASES
ENRON CORPORATION, ET AL.,	§	
	§	
Defendants.	§	

STIPULATION

This stipulation resolves by agreement the following motions currently on file with the Court:

- Plaintiffs' Motion to Allow Inspection of Documents and Subpoena of Same for Safekeeping (filed on March 5, 2002 by Plaintiffs Mary Bain Pearson and John Mason) (Dkt. No. 345);
- Motion to Quash Subpoena Wrongfully Issued by Fleming & Associates, L.L.P. and for Sanctions (filed on March 14, 2002 by Defendants LJM Cayman, L.P., Chewco Investments, L.P., and Michael J. Kopper) (Dkt. No. 369);
- Motion for Reconsideration of Order Granting Emergency Motion to Quash Subpoena Issued by Fleming & Associates and for Sanctions (filed on March 22, 2002 by Fleming & Associates on behalf of Plaintiffs Mary Bain Pearson and John Mason) (Dkt. No. 401);
- Motion for Entry of Order Granting Sanctions Pursuant to Court's March 15, 2002 Order (filed on March 25, 2002 by Defendants LJM Cayman, L.P., Chewco Investments, L.P., and Michael J. Kopper); and
- Motion for Stay of Discovery Proceedings in Cause No. 32,716, *Bullock v. Arthur Andersen, L.L.P.*, pending in the 21st Judicial District Court of Washington County, Texas (filed on March 25, 2002 by Defendants LJM Cayman, L.P., Chewco Investments, L.P., and Michael J. Kopper).

Fleming & Associates ("Fleming"), on behalf of its clients; and Beck, Redden & Secrest, L.L.P. ("BRS"), on behalf of its clients, agree as follows:

1. Fleming shall withdraw the subpoenas issued to Joseph Trahan and/or Distributed Network Services Corp. ("DNS") in Civil Action No. H-02-0670 (consolidated into H-01-3624), *Pearson v. Fastow*, pending in the United States District Court for The Southern District of Texas, Houston Division, and in Cause No. 32,716, *Bullock v. Arthur Andersen, L.L.P.*, pending in the 21st Judicial District Court of Washington County, Texas.
2. Any material in the possession of Mr. Trahan or DNS shall be maintained in the following manner: The original of any such material shall be maintained by DNS in a secure location, and a complete and accurate copy of any and all such material shall be provided by DNS to BRS for its review, in the event that the material becomes subject to discovery in the future.
3. Fleming agrees that to the extent it desires to obtain in the future the material at issue in the subpoenas to Mr. Trahan and/or DNS, it will issue a subpoena in any court directed to LJM2 Capital Management, L.P., which BRS agrees that it will accept on behalf of LJM2 Capital Management, L.P.; and that LJM2 Capital Management, L.P. will make objections and responses to the requested discovery according to applicable rules and authorities. Any such subpoena shall not request production any earlier than 30 days from the date of service.
4. Fleming will not be required in the event of any production of materials pursuant to such subpoena to pay additional costs above and beyond those already paid in connection with the copying of computerized backup tapes.
5. Fleming and BRS agree to withdraw the motions listed above.

6. This agreement is without prejudice to any objection or motion that may be made with respect to discovery undertaken by Fleming in the future on behalf of its clients in any forum.
7. This agreement is without prejudice to arguments by any party as to the appropriate forum for the hearing of objections to discovery propounded in the future.

STIPULATED AND AGREED:By: 

G. Sean Jez
State Bar No. 00795829
Fleming & Associates, L.L.P.
1330 Post Oak Blvd, Suite 3030
Houston, Texas 77056-3019
713/621-7944
713/621-9638 (Facsimile)

By: _____

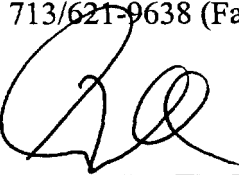
Eric J.R. Nichols
State Bar No. 14994900
Federal I.D. No. 13066
Beck, Redden & Secrest, L.L.P.
1221 McKimcy, Suite 4500
Houston, Texas 77010-2010
(713) 951-3700
(713) 951-3720 (Facsimile)

6. This agreement is without prejudice to any objection or motion that may be made with respect to discovery undertaken by Fleming in the future on behalf of its clients in any forum.
7. This agreement is without prejudice to arguments by any party as to the appropriate forum for the hearing of objections to discovery propounded in the future.

STIPULATED AND AGREED:

By: _____

G. Sean Jez
State Bar No. 00796829
Fleming & Associates, L.L.P.
1330 Post Oak Blvd, Suite 3030
Houston, Texas 77056-3019
713/621-7944
713/621-9638 (Facsimile)



By: _____

Eric J.R. Nichols
State Bar No. 14994900
Federal I.D. No. 13066
Beck, Redden & Secrest, L.L.P.
1221 McKinney, Suite 4500
Houston, Texas 77010-2010
(713) 951-3700
(713) 951-3720 (Facsimile)